

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF BSU WESLEYAN)	APPEAL NO. 06-A-2058
CAMPUS MINISTRY, INC. from the decision of the Board)	FINAL DECISION
of Equalization of Ada County for the tax year 2006.)	AND ORDER

RELIGIOUS EXEMPTION APPEAL

THIS MATTER came on for hearing August 30, 2006, in Boise, Idaho, before Hearing Officer Sandra Tatom. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Treasurer Mary A. Slaughter and Campus Minister David R. Buechler appeared for Appellant. Attorney Susan D. Thomas appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization (BOE) denying a claim for exemption for taxing purposes of property described as Parcel No. R1516280005.

The issue on appeal is the whether a portion (50%) of the subject property qualifies for an exemption from property taxes pursuant to Idaho Code § 63-602B, the religious exemption.

The decision of the Ada County Board of Equalization is reversed.

FINDINGS OF FACT

The subject property was found by the County BOE to be fully taxable in 2006 with an assessed value of \$218,800. For about five of the years Appellant has owned the subject property, a partial-to-full religious exemption was granted. Appellant is seeking similar tax treatment again in 2006 by requesting that 50% of the assessed value (\$109,000) be exempted from tax where one half of the subject property improved square footage is devoted to religious purposes.

The subject property is a two-story building, and the associated land, located near the Boise State University campus. The ground floor consists of two residential apartments. One

is rented, the other is provided as rent free living quarters to an individual who works with the campus minister. The upstairs was remodeled following Appellant's purchase of the property in 1997. It is used for United Methodist Student meetings, study and worship; and the campus minister's office area and as office space for the Eastern District Superintendent (i.e. the District Office of the Oregon-Idaho United Methodist Conference.)

The application for exemption in 2006 was made under Idaho Code § 63-602B. The information provided to the County indicated multiple uses of subject property. Some of the use, namely the residential apartments, was found by the Board of Equalization to be a nonexempt use. The County understanding of the religious exemption did not provide for what it termed "proration." Therefore the County found no exemption was possible on the subject parcel where some of the current use was for a nonexempt purpose.

Appellant is undisputedly a non-profit religious corporation and operates with minimal leeway. Renting the one apartment helps to defray expenses and keep marginally solvent. Appellant hopes the relatively small degree of income from the apartment use coupled with its clear non-profit nature and qualifying uses will allow an exemption.

In Appellant's pleadings, the County treatment of prorating the hospital exemption was discussed. An exempt percentage is apparently based on square footage comparisons and this was how Appellant calculated the 50% claim.

Student activities necessarily include a large number of community charity projects and also projects serving others outside the area, such as gathering health kits for Hurricane Katrina relief. The vast majority of operating revenues come from private donations and monies budgeted by the United Methodist Church.

Respondent notes exemptions from state taxation are strictly construed and never to be

presumed. It is argued if proration is allowed, the statute would and must provide for it. The example of the charitable exemption in Idaho Code § 63-602C was discussed. The charitable activities of Appellant which are connected with the subject property were briefly mentioned as enumerated above. Also Ada County noted the High Court's holding in *Corporation of the Presiding Bishop of the Church of Latter-day Saints v. Ada County*. The ruling is said to negate any religious exemption where a "mixed-use" exists (123 Idaho 410, 849 P.2d 83 (1993.))

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value or exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The claim for exemption is made under Idaho Code § 63-602B (2006), titled "Property exempt from taxation -- Religious corporations or societies". The text of the statute provides in full as follows.

The following property is exempt from taxation: property belonging to any religious corporation or society of this state, used exclusively for and in connection with public worship, and any parsonage belonging to such corporation or society and occupied as such, and any recreational hall belonging to and used in connection with the activities of such corporation or society; and this exemption shall extend to property owned by any religious corporation or society which is used for any combination of religious worship, educational purposes and recreational activities, not designed for profit.

On appellate appeal and at the late stage of hearing in this matter, brief attention was given to the charitable exemption. Significantly no claim or specified information was shared in this regard for consideration by the County Board of Equalization. The Board also finds the appellate proceedings have not afforded a reasonable opportunity for the County to consider any

charitable exemption claim. The Board sits to review decisions and proceedings of the BOE. Idaho Code §§ 63-511 and 63-3811. Under the circumstances, the Board will only review the formal application and claim brought under Idaho Code § 63-602B.

The County characterized the subject parcel's use as mixed between exempt and nonexempt uses. This is an accurate determination. However the two uses, exempt and nonexempt, apply distinctly to two separate portions of the parcel. The same property is not used for the two purposes. The religious exemption statute specifically refers to "property" exclusively used and not the particular boundaries of a "parcel." Here there is an important distinction in meaning between the words. The upstairs was stipulated to be used for exempt purposes. This upstairs use was exclusive as provided for in the statute. The downstairs was used for residential and profit purposes. This use too was exclusive in that it did not entertain exempt uses. In this instance, a single tax parcel contained the two divisible property areas and uses.

Appellant's claim for exemption is a partial one, only pertaining to the property present on subject parcel that is used exclusively for religious (and some charitable) purposes. This exempt use is significant and occupies the full second floor of the subject improvements. There is no need or call to extend the consideration to the outer or full reaches of a tax parcel. The case law cited by the County involved a single-family residence where the house (bathrooms kitchen, bedrooms and meeting rooms) were put to both residential and worship or charitable uses. The residential use was not found to be consistent with a parsonage. The Court held that the mixed-use described would not qualify under the religious exemption. The Board would characterize the use just described as a dual-use. The facts in this case are clearly distinguishable. The two uses in discussion here, the nonexempt residential and exempt religious purposes, are fully

separate and involve distinct property. There is no dual-use of the same property.

For the reasons and findings expressed above, the Board will grant the partial exemption requested. The decision of the Ada County Board of Equalization will be reversed, exempting \$109,000 of the originally assessed value. The 2006 taxable value is therefore to be \$109,800 (218,800-109,000.)

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed lowering the taxable value of subject parcel to \$109,800.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 9th day of February, 2007.